

### REMARKS

In response to the Office Action mailed August 28, 2003, Applicant thanks the Examiner for allowance of Claims 19, 21-22, 24, and 26-29. However, Applicant respectfully requests that the Examiner reconsider his rejection of the remaining claims.

Claims 6, 8, 9, 13-19, 21, 22 and 26-29 are pending in this application.

Claims 13, 15 and 16 are being amended.

Claims 19, 21-22, 24, and 26-29 have been allowed.

Claims 1-5, 7, 10-12, 20, and 25 have previously been cancelled.

Claim 14 is being cancelled by this amendment.

Claims 6 and 13-18 stand rejected under 35 U.S.C. § 102(e), as being anticipated by *Van Driel* (U.S. 6,320,869 B1) (hereinafter "the *Van Driel* reference"). Applicant respectfully traverses these rejections.

Anticipation rejections under 35 U.S.C. § 102(e) require identity of invention. In other words, the Examiner has the burden of identifying, *prima facie*, each and every feature of each and every claim rejected as anticipated in a single prior art reference. The Examiner has failed to meet this burden with regards to the anticipation rejections of Claims 6, 13, and 15 – 18.

Specifically, the *Van Driel* reference does not disclose the utilization of clear channel assessment (CCA) to allocate unused slots and/or idle times within a frame. As described on Page 16, First Full Paragraph, and Page 18, Second Full Paragraph, of the Application, during clear channel assessment, each node attempts to detect a quiet time on the network. Each transmitting node thereafter refrains for a waiting time based on the quiet time *and* a number of nodes on the network before transmitting on the network during unused slots and/or idle times. Advantageously, the CCA technique minimizes intervention by the system master, since each individual node independently determines the proper time to attempt to transmit over the quiet channel.

In contrast, the *Van Driel* reference discloses an active system in which those secondary systems having data to transmit on the network must first send request signals to the primary system. In turn, the primary station returns an allocation signal to the secondary stations allocating transmission slots to those secondary stations. See for example, the *Van Driel* reference, Abstract. In other words, the primary station must intervene in the process of scheduling transmissions. Advantageously, the CCA technique of the present invention eliminates the need for such two-way communication between a master device and a client device nodes.

Claims 8-9 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the *Van Driel* reference in view of *Tobagi, et al.* (U.S. 5,446,735) (hereinafter "the *Tobagi* reference"). Applicant respectfully traverses these rejections.

Applicant respectfully points out that, contrary to the Examiner's assertion, the *Tobagi* reference does not disclose, at Cols. 11 and 12, the utilization of a CCA technique in a network communications scheme. More specifically, the *Tobagi* reference does not disclose the use of a CCA to allocate unused slots and/or idle time within a network stream.

In contrast, the Courteous Allocation Protocol system in the *Tobagi* reference, at Cols. 11 and 12, discloses repeated collisions which may occur when multiple stations attempt to transmit on the network. With each collision, the colliding stations apply a truncated exponential back – off scheme to reschedule their transmissions, even into a following transmission packet. In other words, none of these stations determines an appropriate slot or idle time for transmission based on observing quiet times and the number of nodes in the system.

The *Tobagi* reference does not mention the utilization of unused slots and/or idle time in a network frame for performance improvement.

For the foregoing reasons, Applicant respectfully submits that the rejections of Claims 6, 8-9, and 15-18 should be withdrawn.

No new matter has been added; the Application has been amended to merely

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more particularly point out and distinctly claim the subject matter Applicant believes is inventive. Applicant respectfully submits that the Claims as they now stand are patentably distinct over the art cited during the prosecution thereof.


With the addition of no new claims, no additional filing fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account Number 23-2426 of WINSTEAD SECHREST & MINICK P.C.

If the Examiner has any questions or comments concerning this paper or the present application in general, the Examiner is invited to call the undersigned at (214) 745-5374.

Respectfully submitted,

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